

COMMONWEALTH OF MASSACHUSETTS

At the Supreme Judicial Court holden at Boston within and for said Commonwealth on the eighth day of June, in the year two thousand and sixteen:

present,

<u>HON. RALPH D. GANTS</u>)	Chief Justice
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<u>HON. FRANCIS X. SPINA</u>)	
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<u>HON. ROBERT J. CORDY</u>)	Justices
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<u>HON. MARGOT BOTSFORD</u>)	
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<u>HON. FERNANDE R.V. DUFFLY</u>)	
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<u>HON. BARBARA A. LENK</u>)	
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<u>HON. GERALDINE S. HINES</u>)	

ORDERED: That the Massachusetts Rules of Criminal Procedure adopted by order dated October 19, 1978, as amended, to take effect on July 1, 1979, are hereby amended as follows:

Rule 29	By deleting the current Rule 29 and inserting in lieu thereof the new Rule 29 attached hereto.
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Mass. R. Crim. P. 29. Revision or Revocation of Sentence

(Applicable to District Court and Superior Court)

(a) Revision or Revocation.

(1) Illegal Sentences. The trial judge, upon the judge's own motion, or the written motion of the prosecutor, filed within sixty days after imposition of a sentence, may revise or revoke such sentence if the judge determines that any part of the sentence was illegal.

(2) Unjust Sentences. The trial judge, upon the judge's own motion, or the written motion of a defendant, filed within sixty days after the imposition of a sentence or within sixty days after issuance of a rescript by an appellate court on direct review, may, upon such terms and conditions as the judge shall order, revise or revoke such sentence if it appears that justice may not have been done.

(b) Affidavits. If a party files a motion pursuant to this rule, the party shall file and serve, and the other party may file and serve, affidavits in support of their respective positions. The judge may deny a motion filed pursuant to this rule on the basis of facts alleged in the affidavits without further hearing.

(c) Notice. The moving party shall serve the other party with a copy of any motion and affidavit filed pursuant to this rule. If the judge orders that a hearing be held on the motion, the court shall give the parties reasonable notice of the time set for the hearing.

(d) Place of Hearing. A motion filed pursuant to this rule may be heard by the trial judge wherever the judge is then sitting.

(e) Appeal. An appeal from a final order under this rule may be taken to the Appeals Court, or the Supreme Judicial Court in an appropriate case, by either party.

The amendments accomplished by this order shall take effect on September 1, 2016.

ORDERED:

<u>HON. RALPH D. GANTS</u>)	Chief Justice
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<u>HON. FRANCIS X. SPINA</u>)	
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<u>HON. ROBERT J. CORDY</u>)	Justices
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